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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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## ENROLLED

Com. Sub. for  
HOUSE BILL No. 2327

(By Mr. Speaker, Mr. Chambers, + Del. R. Burk)  
[By Request of the Executive]

— ● —

Passed April 8, 1989

In Effect June 1, 1989 ~~Passage~~

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COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2327**

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE R. BURK)  
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AN ACT to amend and reenact article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; all relating to the West Virginia parkways, economic development and tourism authority; dissolving and terminating the West Virginia turnpike commission as of the first day of June, one thousand nine hundred eighty-nine and creating as of the same date the West Virginia parkways, economic development and tourism authority; amending and reenacting existing provisions relating to turnpike commission; providing for construction, operation and financing of parkway, economic development and tourism projects; declaring construction of modern highways and promotion and enhancement of tourism and economic development in state as goals of authority, including, but not limited to, development, construction, improvement and enhancement of state parks and tourist facilities and attractions; providing that bonds issued by authority not debt of state or any political subdivision thereof; providing for composition of authority, terms of members and procedural matters relating thereto; transferring powers, obligations, liabilities, duties, functions, personnel, property and

other assets of turnpike commission to authority; defining certain terms used in article; setting forth powers of authority including, but not limited to, power to issue revenue and revenue refunding bonds to finance projects, to construct, reconstruct, improve, repair, maintain and operate projects, to fix and revise tolls, rents, fees and other charges, and to make and enter into contracts and agreements necessary or incidental to the performance of its duties; authorizing construction of grade separations at intersection of any project; authorizing acquisition of land, property, rights and other interests in land as authority may deem necessary; authorizing condemnation proceedings in certain circumstances; authorizing issuance of revenue bonds generally for purposes of paying all or any part of cost of projects, and specifying form and terms thereof and rights of holders thereof; authorizing issuance of revenue bonds to pay cost of West Virginia turnpike, including repayment to state of funds owed to it in connection with upgrading turnpike to federal interstate standards and, to the extent permitted by federal law, paying all or any part of the cost of related parkway projects, and limiting issuance of such bonds to an aggregate principal amount of eighty-three million dollars; specifying uses of bond proceeds; providing that bonds may be secured by trust agreement with any trust company and certain banks; providing that authority may fix, revise, charge and collect tolls, rents, fees, charges and other revenues and requiring competitive bidding on certain contracts; exempting authority from payment of taxes; designating all money received by authority as trust funds; setting forth bondholder and trustee remedies; requiring that all private property damaged or destroyed by authority be repaired or restored by authority from its funds; authorizing commissioner of highways department to expend funds to study feasibility of projects and reimbursing commissioner from bond proceeds; establishing penalty for defrauding authority; providing for cessation of tolls under certain circumstances; requiring removal of certain tolls on turnpike by specified date; providing that parkway projects shall constitute part of state road

system; authorizing issuance of revenue refunding bonds generally to refund outstanding bonds of authority and, if deemed advisable by authority, to pay all or any part of the cost of new project or projects, and to repay to state funds owed to it in connection with upgrading turnpike to federal interstate standards, and providing form and terms thereof and rights of holders thereof; authorizing issuance of special revenue refunding bonds in an aggregate principal amount not to exceed sixty million dollars to eliminate outstanding debt on West Virginia turnpike and, to the extent permissible under federal law, to pay all or any part of the cost of additional parkway projects or to repay to state funds owed to it in connection with upgrading turnpike to federal interstate standards; establishing special highway fund, to be separate and distinct from state road fund and general revenues, consisting of funds disbursed by the authority to department of highways in repayment of state funds used to upgrade West Virginia turnpike, and all appropriations, grants, gifts and other contributions to fund, and all interest earned on moneys held in fund; authorizing governor to transfer up to thirty-five million dollars from special highway fund to economic development authority insurance fund, and specifying that balance of special highway fund to be subject to legislative appropriation; providing that act to be deemed to provide additional and alternative methods for accomplishing purposes thereof; authorizing issuance of special obligation bonds; requiring preparation of annual report of financial condition and operations; providing for development of exit awareness signs; providing severability clause; and providing effective date of first day of June, one thousand nine hundred eighty-nine.

*Be it enacted by the Legislature of West Virginia:*

That article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY.**

**§17-16A-1. Constructing, operating, financing, etc.,**

**parkway, economic development and tourism projects.**

1 In order to remove the present handicaps and hazards  
2 on the congested highways and roads in the state of West  
3 Virginia, to facilitate vehicular traffic throughout the  
4 state, to promote and enhance the tourism industry and  
5 to develop and improve tourist facilities and attractions  
6 in the state, to promote the agricultural, economic and  
7 industrial development of the state, and to provide for  
8 the construction of modern express highways including  
9 center divisions, ample shoulder widths, long sight  
10 distances, the bypassing of cities, multiple lanes in each  
11 direction and grade separations at all intersections with  
12 other highways and railroads, to provide for the  
13 development, construction, improvement and enhance-  
14 ment of state parks, tourist facilities and attractions,  
15 and to provide for the improvement and enhancement  
16 of state parks presently existing, the West Virginia  
17 parkways, economic development and tourism authority  
18 (hereinafter created) is hereby authorized and empow-  
19 ered to construct, reconstruct, improve, maintain, repair  
20 and operate parkway projects, economic development  
21 projects and tourism projects (as those terms are  
22 hereinafter defined in section five of this article) at such  
23 locations as shall be approved by the state department  
24 of transportation, and to issue parkway revenue bonds  
25 of the state of West Virginia, payable solely from  
26 revenues, to pay the cost of such projects.

**§17-16A-2. Parkway revenue bonds and revenue refund-  
ing bonds not debt of state or political  
subdivisions; statement on bonds.**

1 Parkway revenue bonds and revenue refunding bonds  
2 issued under the provisions of this article shall not be  
3 deemed to constitute a debt of the state or of any  
4 political subdivision thereof or a pledge of the faith and  
5 credit of the state or of any such political subdivision,  
6 but such bonds shall be payable solely from the funds  
7 herein provided therefor from revenues. All such  
8 parkway revenue bonds and revenue refunding bonds  
9 shall contain on the face thereof a statement to the effect  
10 that neither the state nor any political subdivision

11 thereof shall be obligated to pay the same or the interest  
12 thereon except from revenues of the project or projects  
13 for which they are issued and that neither the faith and  
14 credit nor the taxing power of the state or any political  
15 subdivision thereof is pledged to the payment of the  
16 principal of or the interest on such bonds.

**§17-16A-3. Dissolution and termination of West Virginia  
turnpike commission; West Virginia park-  
ways, economic development and tourism  
authority generally.**

1 On and after the first day of June, one thousand nine  
2 hundred eighty-nine, the West Virginia turnpike  
3 commission is hereby abolished in all respects, and there  
4 is hereby created the "West Virginia Parkways, Eco-  
5 nomic Development and Tourism Authority," and by  
6 that name the parkways authority may sue and be sued  
7 and plead and be impleaded. The parkways authority is  
8 hereby constituted an agency of the state, and the  
9 exercise by the parkways authority of the powers  
10 conferred by this article in the construction, reconstruc-  
11 tion, improvement, operation and maintenance of  
12 parkway, economic development and tourism projects  
13 shall be deemed and held to be an essential governmen-  
14 tal function of the state.

15 The West Virginia parkways, economic development  
16 and tourism authority shall consist of seven members,  
17 including the transportation secretary, who shall serve  
18 as chairman of the parkways authority, and six  
19 members, including no less than one from each of the  
20 counties which have land bordering parkway projects,  
21 appointed by the governor, by and with the advice and  
22 consent of the Senate. The appointed members shall be  
23 residents of the state, and shall have been qualified  
24 electors therein for a period of at least one year next  
25 preceding their appointment. Upon the effective date of  
26 this legislation, the governor shall forthwith appoint six  
27 members of the parkways authority for staggered  
28 terms. The terms of the parkways authority members  
29 first taking office on or after the effective date of this  
30 legislation shall expire as designated by the governor at  
31 the time of the nomination, one at the end of the first

32 year, one at the end of the second year, one at the end  
33 of the third year, one at the end of the fifth year, one  
34 at the end of the sixth year, and one at the end of the  
35 seventh year, after the first day of June, one thousand  
36 nine hundred eighty-nine. As these original appoint-  
37 ments expire, each subsequent appointment shall be for  
38 a full eight-year term. Any member whose term has  
39 expired shall serve until his successor has been duly  
40 appointed and qualified. Any person appointed to fill a  
41 vacancy shall serve only for the unexpired term. Any  
42 member shall be eligible for reappointment. The term  
43 of any person serving as a member of the West Virginia  
44 turnpike commission immediately preceding the effec-  
45 tive date of this legislation shall cease and otherwise  
46 expire upon such effective date: *Provided*, That any such  
47 member shall be eligible for reappointment. Each  
48 appointed member of the parkways authority before  
49 entering upon his duties shall take an oath as provided  
50 by section five of article IV of the Constitution of the  
51 state of West Virginia.

52 The parkways authority shall elect one of the ap-  
53 pointed members as vice chairman, and shall also elect  
54 a secretary and treasurer who need not be members of  
55 the parkways authority. Four members of the parkways  
56 authority shall constitute a quorum and the vote of a  
57 majority of members present shall be necessary for any  
58 action taken by the parkways authority. No vacancy in  
59 the membership of the parkways authority shall impair  
60 the right of a quorum to exercise all the rights and  
61 perform all the duties of the parkways authority. The  
62 parkways authority shall meet at least monthly and  
63 either the chairman or any four members shall be  
64 empowered to call special meetings for any purpose or  
65 purposes: *Provided*, That notice of any such meeting  
66 shall be given to all members of the parkways authority  
67 not less than ten days prior to said special meetings.

68 Before the issuance of any parkway revenue bonds or  
69 revenue refunding bonds under the provisions of this  
70 article, each appointed member of the parkways  
71 authority shall execute a surety bond in the penal sum  
72 of twenty-five thousand dollars and the secretary and

73 treasurer shall execute a surety bond in the penal sum  
 74 of fifty thousand dollars, each such surety bond to be  
 75 conditioned upon the faithful performance of the duties  
 76 of his office, to be executed by a surety company  
 77 authorized to transact business in the state of West  
 78 Virginia as surety and to be approved by the governor  
 79 and filed in the office of the secretary of state.

80 The members of the parkways authority shall not be  
 81 entitled to compensation for their services, but each  
 82 member shall be reimbursed for his actual expenses  
 83 necessarily incurred in the performance of his duties.  
 84 All expenses incurred in carrying out the provisions of  
 85 this article shall be payable solely from funds provided  
 86 under the authority of this article and no liability or  
 87 obligation shall be incurred by the parkways authority  
 88 hereunder beyond the extent to which moneys shall have  
 89 been provided under the authority of this article.

**§17-16A-4. Transfer of powers, duties, functions, assets  
 and liabilities of turnpike commission to  
 parkways authority.**

1 (a) The duties, powers and functions of the West  
 2 Virginia turnpike commission are hereby transferred to  
 3 the parkways authority.

4 (b) All obligations, indebtedness and other liabilities  
 5 of, and all rights, assets and other property owned by  
 6 or used in the administration of, the West Virginia  
 7 turnpike commission as of the first day of June, one  
 8 thousand nine hundred eighty-nine, and all personnel of  
 9 said turnpike commission as of said date are hereby  
 10 assumed by and transferred to the parkways authority,  
 11 which is hereby constituted the successor in interest to  
 12 said commission in all respects.

13 (c) All books, papers, maps, charts, plans, literature  
 14 and other records in the possession of the West Virginia  
 15 turnpike commission as of the first day of June, one  
 16 thousand nine hundred eighty-nine, shall be delivered or  
 17 turned over to the parkways authority.

18 (d) The unexpended balance of appropriations or other  
 19 funds available for use of the West Virginia turnpike



20 commission as of the first day of June, one thousand nine  
21 hundred eighty-nine, is hereby transferred to the  
22 parkways authority for the use of the parkways author-  
23 ity.

**§17-16A-5. Definitions.**

1 As used in this article, the following words and terms  
2 shall have the following meanings, unless the context  
3 shall indicate another or different meaning or intent:

4 (a) The words "parkways authority" mean the West  
5 Virginia parkways, economic development and tourism  
6 authority created by section three of this article, or if  
7 said parkways authority shall be abolished, the board,  
8 body, commission or authority succeeding to the  
9 principal functions thereof or to whom the powers given  
10 by this article to the parkways authority shall be given  
11 by law.

12 (b) The words "parkway project" mean any express-  
13 way, turnpike, trunkline, feeder road, state local service  
14 road or park and forest road which the parkways  
15 authority may at any time determine to construct,  
16 reconstruct, maintain, improve or repair under the  
17 provisions of this article, or any expressway, turnpike  
18 or other road constructed by the West Virginia turnpike  
19 commission pursuant to the authority granted to it  
20 under the laws of this state prior to the first day of June,  
21 one thousand nine hundred eighty-nine, and shall  
22 embrace all bridges, tunnels, overpasses, underpasses,  
23 interchanges, entrance plazas, approaches, toll houses,  
24 service stations and administration, storage and other  
25 buildings, which the parkways authority may deem  
26 necessary for the operation of the parkway project, or  
27 which is used in the operation of a parkway project  
28 constructed prior to the first day of June, one thousand  
29 nine hundred eighty-nine, together with all property,  
30 rights, easements and interests which may be acquired  
31 by the parkways authority for the construction or the  
32 operation of the parkway project or which were  
33 acquired in connection with or are used in the operation  
34 of a parkway project constructed prior to the first day  
35 of June, one thousand nine hundred eighty-nine.

36 (c) The words "tourism project" mean (i) any park or  
 37 tourist facility and attraction which the parkways  
 38 authority may at any time determine to create, develop,  
 39 construct, reconstruct, improve, maintain or repair  
 40 under the provisions of this article, and shall embrace  
 41 all roads, interchanges, entrance plazas, approaches,  
 42 services stations, administration, storage and any other  
 43 buildings or service stations, structures which the  
 44 parkways authority may deem necessary for the oper-  
 45 ation of the tourism project, together with all property  
 46 rights, easements and interests which may be acquired  
 47 by the parkways authority for the construction or  
 48 operation of the tourism project; and (ii) the construc-  
 49 tion, reconstruction, improvement, maintenance and  
 50 repair of any park or tourist facility and attraction  
 51 owned by the state as of the first day of June, one  
 52 thousand nine hundred eighty-nine.

53 (d) The words "economic development project" mean  
 54 any land or water site, structure, facility or equipment  
 55 which the parkways authority may at any time deter-  
 56 mine to acquire, create, develop, construct, reconstruct,  
 57 improve or repair under the provisions of this article to  
 58 promote the agricultural, economic or industrial  
 59 development of the state, together with all property  
 60 rights, easements and interests which may be acquired  
 61 by the parkways authority for the development, con-  
 62 struction or operation of such project.

63 (e) The words "project" or "projects" mean a parkway  
 64 project, economic development project or tourism  
 65 project, or any combination thereof.

66 (f) The words "transportation secretary" mean the  
 67 secretary of the state department of transportation.

68 (g) The words "West Virginia turnpike commission"  
 69 mean the state turnpike commission existing as of the  
 70 first day of June, one thousand nine hundred eighty-  
 71 nine.

72 (h) The words "tourist facility and attraction" mean  
 73 cabins, lodges, recreational facilities, restaurants, and  
 74 other revenue producing facilities, any land or water  
 75 site, and any information center, visitors' center or rest

76 stop which the parkways authority determines may  
77 improve, enhance or contribute to the development of  
78 the tourism industry in the state.

79 (i) The word "turnpike" means the West Virginia  
80 Turnpike or any other toll road in the state.

81 (j) The word "expressway" means any road serving  
82 major intrastate and interstate travel, including federal  
83 interstate routes.

84 (k) The word "trunkline" means any road serving  
85 major city to city travel.

86 (l) The words "feeder roads" mean any road serving  
87 community to community travel or collects and feeds  
88 traffic to an expressway or turnpike.

89 (m) The words "local service road" mean any local  
90 arterialized and spur roads which provide land access  
91 and socioeconomic benefits to abutting properties.

92 (n) The words "park and forest roads" mean any road  
93 serving travel within state parks, state forests and  
94 public hunting and fishing areas.

95 (o) The word "cost" as applied to any project, including  
96 without limitation the West Virginia Turnpike in  
97 sections eleven and twenty-two of this article, embraces  
98 the cost of construction, reconstruction, maintenance,  
99 improvement, repair and operation of the project, the  
100 cost of the acquisition of all land, rights-of-way,  
101 property, rights, easements and interests acquired by  
102 the parkways authority for such construction, recon-  
103 struction, maintenance, improvement and repair, the  
104 cost of all machinery, equipment, material and labor  
105 which are deemed essential thereto, the cost of improve-  
106 ments, the cost of financing charges, interest prior to  
107 and during construction and for one year after comple-  
108 tion of construction, the cost of traffic estimates and of  
109 engineering, consultant, accounting, architects', trus-  
110 tees' and legal fees and expenses, plans, specifications,  
111 surveys, estimates of cost and of revenues, other costs  
112 and expenses necessary or incident to determining the  
113 feasibility or practicability of constructing any such  
114 project, administrative expenses and such other costs

115 and expenses as may be necessary or incident to the  
 116 construction of the project, the financing of such  
 117 construction and the placing of the project in operation  
 118 or to the operation of the project. Any obligation or  
 119 expense hereafter incurred by the commissioner of the  
 120 department of highways with the approval of the  
 121 parkways authority for traffic surveys, borings, prepa-  
 122 ration of plans and specifications, and other engineering  
 123 and consulting services in connection with the construc-  
 124 tion of a project shall be regarded as a part of the cost  
 125 of such project and shall be reimbursed to the state out  
 126 of the proceeds of parkway revenue bonds or revenue  
 127 refunding bonds hereinafter authorized.

128 (p) The word "owner" includes all individuals,  
 129 copartnerships, associations or corporations having any  
 130 title or interest in any property, rights, easements and  
 131 interests authorized to be acquired by this article.

132 (q) The words "West Virginia Turnpike" mean the  
 133 turnpike from Charleston to a point approximately one  
 134 mile south of the intersection of Interstate 77 and U. S.  
 135 Route 460 near Princeton in Mercer County, West  
 136 Virginia, which road is presently a part of the federal  
 137 interstate highway system.

**§17-16A-6. Parkways authority's powers.**

1 (a) The parkways authority is hereby authorized and  
 2 empowered:

3 (1) To adopt bylaws for the regulation of its affairs  
 4 and the conduct of its business;

5 (2) To adopt an official seal and alter the same at  
 6 pleasure;

7 (3) To maintain an office at such place or places within  
 8 the state as it may designate;

9 (4) To sue and be sued in its own name, plead and be  
 10 impleaded. Any and all actions against the parkways  
 11 authority shall be brought only in the county in which  
 12 the principal office of the parkways authority shall be  
 13 located;

14 (5) To construct, reconstruct, improve, maintain,

15 repair and operate projects at such locations within the  
16 state as may be determined by the parkways authority:  
17 *Provided*, That the parkways authority shall be prohi-  
18 bited from constructing motels or any other type of  
19 lodging facility within five miles of the West Virginia  
20 Turnpike;

21 (6) To issue parkway revenue bonds of the state of  
22 West Virginia, payable solely from revenues, for the  
23 purpose of paying all or any part of the cost of any one  
24 or more projects, which costs may include, with respect  
25 to the West Virginia Turnpike, such funds as are  
26 necessary to repay to the state of West Virginia all or  
27 any part of the state funds used to upgrade the West  
28 Virginia Turnpike to federal interstate standards;

29 (7) To issue parkway revenue refunding bonds of the  
30 state of West Virginia, payable solely from revenues, for  
31 any one or more of the following purposes: (i) construct-  
32 ing improvements, enlargements or extensions to the  
33 project in connection with which the bonds to be  
34 refunded were issued; (ii) paying all or part of the cost  
35 of any additional project or projects; (iii) refunding any  
36 bonds which shall have been issued under the provisions  
37 of this article or any predecessor thereof; and (iv)  
38 repaying to the state all or any part of the state funds  
39 used to upgrade the West Virginia Turnpike to federal  
40 interstate standards;

41 (8) To fix and revise from time to time tolls for transit  
42 over each parkway project constructed by it or by the  
43 West Virginia turnpike commission;

44 (9) To fix and revise from time to time rents, fees or  
45 other charges, of whatever kind or character, for the use  
46 of each tourism project or economic development project  
47 constructed by it or for the use of any building,  
48 structure or facility constructed by it in connection with  
49 a parkway project;

50 (10) To acquire, hold, lease and dispose of real and  
51 personal property in the exercise of its powers and the  
52 performance of its duties under this article;

53 (11) To acquire in the name of the state by purchase

54 or otherwise, on such terms and conditions and in such  
55 manner as it may deem proper, or by the exercise of the  
56 right of condemnation in the manner hereinafter  
57 provided, such public or private lands, including public  
58 parks, playgrounds or reservations, or parts thereof or  
59 rights therein, rights-of-way, property, rights, ease-  
60 ments and interests, as it may deem necessary for  
61 carrying out the provisions of this article. No compen-  
62 sation shall be paid for public lands, playgrounds, parks,  
63 parkways or reservations so taken, and all public  
64 property damaged in carrying out the powers granted  
65 by this article shall be restored or repaired and placed  
66 in its original condition as nearly as practicable;

67 (12) To designate the locations, and establish, limit  
68 and control such points of ingress to and egress from  
69 each project as may be necessary or desirable in the  
70 judgment of the parkways authority to ensure the  
71 proper operation and maintenance of such project, and  
72 to prohibit entrance to such project from any point or  
73 points not so designated;

74 (13) To make and enter into all contracts and agree-  
75 ments necessary or incidental to the performance of its  
76 duties and the execution of its powers under this article,  
77 and to employ consulting engineers, attorneys, accoun-  
78 tants, architects, construction and financial experts,  
79 trustees, superintendents, managers and such other  
80 employees and agents as may be necessary in its  
81 judgment, and to fix their compensation. All such  
82 expenses shall be payable solely from the proceeds of  
83 parkway revenue bonds or parkway revenue refunding  
84 bonds issued under the provisions of this article, tolls or  
85 from revenues;

86 (14) To make and enter into all contracts, agreements  
87 or other arrangements with any agency, department,  
88 division, board, bureau, commission, authority or other  
89 governmental unit of the state to operate, maintain or  
90 repair any project;

91 (15) To receive and accept from any federal agency  
92 grants for or in aid of the construction of any project,  
93 and to receive and accept aid or contributions from any

94 source of either money, property, labor or other things  
95 of value, to be held, used and applied only for the  
96 purposes for which such grants and contributions may  
97 be made;

98 (16) To do all acts and things necessary or convenient  
99 to carry out the powers expressly granted in this article;  
100 and

101 (17) To file the necessary petition or petitions pursuant  
102 to Title 11, United States Code, Sec. 401 (being section  
103 81 of the act of Congress entitled "An act to establish  
104 a uniform system of bankruptcy throughout the United  
105 States," approved July 1, 1898, as amended) and to  
106 prosecute to completion all proceedings permitted by  
107 Title 11, United States Code, Secs. 401-403 (being  
108 sections 81 to 83, inclusive, of said act of Congress). The  
109 state of West Virginia hereby consents to the application  
110 of said Title 11, United States Code, Secs. 401-403, to  
111 the parkways authority.

112 (b) Nothing in this article shall be construed to  
113 prohibit the issuance of parkway revenue refunding  
114 bonds in a common plan of financing with the issuance  
115 of parkway revenue bonds.

**§17-16A-7. Parkways authority's incidental powers.**

1 The parkways authority shall have authority to  
2 construct grade separations at intersections of any  
3 project with public roads and state highways and to  
4 change and adjust the lines and grades of such roads  
5 and highways so as to accommodate the same to the  
6 design of such grade separation. The cost of such grade  
7 separations and any damage incurred in changing and  
8 adjusting the lines and grades of such roads and  
9 highways shall be ascertained and paid by the parkways  
10 authority as a part of the cost of such project.

11 If the parkways authority shall find it necessary to  
12 change the location of any portion of any public road or  
13 state highway, it shall cause the same to be recon-  
14 structed at such location as the parkways authority shall  
15 deem most favorable and of substantially the same type  
16 and in as good condition as the original road or highway.

17 The cost of such reconstruction and any damage  
18 incurred in changing the location of any such road or  
19 highway shall be ascertained and paid by the parkways  
20 authority as a part of the cost of such project.

21 Upon the request of the parkways authority, the  
22 commissioner of the state department of highways shall  
23 relocate or discontinue any road or highway over which  
24 he has authority and control which is affected by the  
25 construction of any project.

26 In addition to the foregoing powers, the parkways  
27 authority and its authorized agents and employees may  
28 enter upon any lands, waters and premises in the state  
29 for the purpose of making surveys, soundings, drillings  
30 and examinations as it may deem necessary or conve-  
31 nient for the purposes of this article, and such entry  
32 shall not be deemed a trespass, nor shall an entry for  
33 such purposes be deemed an entry under any condem-  
34 nation proceedings which may be then pending. The  
35 parkways authority shall make reimbursement for any  
36 actual damages resulting to such lands, waters and  
37 premises as a result of such activities.

38 The state of West Virginia hereby consents to the use  
39 of all lands owned by it, including lands lying under  
40 water, which are deemed by the parkways authority to  
41 be necessary for the construction or operation of any  
42 project.

**§17-16A-8. Acquisition of land, property, easements, etc.**

1 The parkways authority is hereby authorized and  
2 empowered to acquire by purchase, whenever it shall  
3 deem such purchase expedient, any land, property,  
4 rights, rights-of-way, franchises, easements and other  
5 interests in lands as it may deem necessary or conven-  
6 ient for the construction or operation of any project upon  
7 such terms and at such price as may be considered by  
8 it to be reasonable and can be agreed upon between the  
9 parkways authority and the owner thereof, and to take  
10 title thereto in the name of the state.

**§17-16A-9. Condemnation of property.**

1 Whenever a reasonable price cannot be agreed upon,



2 or whenever the owner is legally incapacitated, or is  
3 absent, unknown or unable to convey valid title, the  
4 parkways authority is hereby authorized and empo-  
5 wered to acquire, by the exercise of the power of  
6 condemnation in accordance with and subject to the  
7 provisions of any and all existing laws and statutes  
8 applicable to the exercise of the power of condemnation  
9 of property for public use, any land, property, rights,  
10 rights-of-way, franchises, easements or other property  
11 deemed necessary or convenient for the construction or  
12 the efficient operation of any project or necessary in the  
13 restoration of public or private property damaged or  
14 destroyed. In any condemnation proceedings the court  
15 having jurisdiction of the suit, action or proceeding may  
16 make such orders as may be just to the parkways  
17 authority and to the owners of the property to be  
18 condemned and may require an undertaking or other  
19 security to secure such owners against any loss or  
20 damage by reason of the failure of the parkways  
21 authority to accept and pay for the property, but neither  
22 such undertaking or security nor any act or obligation  
23 of the parkways authority shall impose any liability  
24 upon the state or the parkways authority except such as  
25 may be paid from the funds provided under the  
26 authority of this article.

**§17-16A-10. Parkway revenue bonds—Generally.**

1 The parkways authority is hereby authorized to  
2 provide by resolution, at one time or from time to time,  
3 for the issuance of parkway revenue bonds of the state  
4 for the purpose of paying all or any part of the cost of  
5 one or more projects: *Provided*, That this section shall  
6 not be construed as authorizing the issuance of parkway  
7 revenue bonds for the purpose of paying the cost of the  
8 West Virginia Turnpike, which parkway revenue bonds  
9 may be issued only as authorized under section eleven  
10 of this article. The principal of and the interest on such  
11 bonds shall be payable solely from the funds herein  
12 provided for such payment. The bonds of each issue shall  
13 be dated, shall bear interest at such rate or rates as may  
14 be determined by the parkways authority in its sole  
15 discretion, shall mature at such time or times not

16 exceeding forty years from their date or dates, as may  
17 be determined by the parkways authority, and may be  
18 made redeemable before maturity, at the option of the  
19 parkways authority, at such price or prices and under  
20 such terms and conditions as may be fixed by the  
21 parkways authority prior to the issuance of the bonds.  
22 The parkways authority shall determine the form of the  
23 bonds, including any interest coupons to be attached  
24 thereto, and shall fix the denomination or denominations  
25 of the bonds and the place or places of payment of  
26 principal and interest, which may be at any bank or  
27 trust company within or without the state. The bonds  
28 shall be executed by manual or facsimile signature by  
29 the governor and by the chairman of the parkways  
30 authority, and the official seal of the parkways authority  
31 shall be affixed to or printed on each bond, and attested,  
32 manually or by facsimile signature, by the secretary and  
33 treasurer of the parkways authority, and any coupons  
34 attached to any bond shall bear the manual or facsimile  
35 signature of the chairman of the parkways authority. In  
36 case any officer whose signature or a facsimile of whose  
37 signature appears on any bonds or coupons shall cease  
38 to be such officer before the delivery of such bonds, such  
39 signature or facsimile shall nevertheless be valid and  
40 sufficient for all purposes the same as if he had  
41 remained in office until such delivery; and, in case the  
42 seal of the parkways authority has been changed after  
43 a facsimile has been imprinted on such bonds, such  
44 facsimile seal will continue to be sufficient for all  
45 purposes. All bonds issued under the provisions of this  
46 article shall have and are hereby declared to have all  
47 the qualities and incidents of negotiable instruments  
48 under the negotiable instruments law of the state. The  
49 bonds may be issued in coupon or in registered form,  
50 or both, as the parkways authority may determine, and  
51 provision may be made for the registration of any  
52 coupon bonds as to principal alone and also as to both  
53 principal and interest, and for the reconversion into  
54 coupon bonds of any bonds registered as to both  
55 principal and interest. The parkways authority may sell  
56 such bonds in such manner, either at public or at private  
57 sale, and for such price, as it may determine to be in

58 the best interests of the state.

59 The proceeds of the bonds of each issue shall be used  
60 solely for the payment of the cost of the parkway project  
61 or projects for which such bonds shall have been issued,  
62 and shall be disbursed in such manner and under such  
63 restrictions, if any, as the parkways authority may  
64 provide in the resolution authorizing the issuance of  
65 such bonds or in the trust agreement hereinafter  
66 mentioned securing the same. If the proceeds of the  
67 bonds of any issue, by error of estimates or otherwise,  
68 shall be less than such cost, additional bonds may in like  
69 manner be issued to provide the amount of such deficit,  
70 and, unless otherwise provided in the resolution autho-  
71 rizing the issuance of such bonds or in the trust  
72 agreement securing the same, shall be deemed to be of  
73 the same issue and shall be entitled to payment from the  
74 same fund without preference or priority of the bonds  
75 first issued. If the proceeds of the bonds of any issue  
76 shall exceed the cost of the project or projects for which  
77 the same shall have been issued, the surplus shall be  
78 deposited to the credit of the sinking fund for such  
79 bonds.

80 Prior to the preparation of definitive bonds, the  
81 parkways authority may, under like restrictions, issue  
82 interim receipts or temporary bonds, with or without  
83 coupons, exchangeable for definitive bonds when such  
84 bonds shall have been executed and are available for  
85 delivery. The parkways authority may also provide for  
86 the replacement of any bonds which shall become  
87 mutilated or shall be destroyed or lost. Bonds may be  
88 issued under the provisions of this article without  
89 obtaining the consent of any department, division,  
90 commission, board, bureau or agency of the state, and  
91 without any other proceedings or the happening of any  
92 other conditions or things than those proceedings,  
93 conditions or things which are specifically required by  
94 this article.

**§17-16A-11. Parkway revenue bonds—West Virginia  
Turnpike; related projects.**

1 The parkways authority is hereby authorized to

2 provide by resolution, at one time or from time to time,  
3 for the issuance of parkway revenue bonds of the state  
4 in an aggregate principal amount not to exceed eighty-  
5 three million dollars for the purpose of paying (i) all or  
6 any part of the cost of the West Virginia Turnpike,  
7 which cost may include but not be limited to, an amount  
8 equal to the state funds used to upgrade the West  
9 Virginia Turnpike to federal interstate standards, and  
10 (ii) to the extent permitted by federal law, all or any  
11 part of the cost of any related parkway project. For  
12 purposes of this section eleven only, a "related parkway  
13 project" means any information center, visitors' center  
14 or rest stop, or any combination thereof, and any  
15 expressway, turnpike, trunkline, feeder road, state local  
16 service road or park and forest road which connects to  
17 or intersects with the West Virginia Turnpike and is  
18 located within seventy-five miles of said turnpike as it  
19 exists on the first day of June, one thousand nine  
20 hundred eighty-nine or any subsequent expressway,  
21 trunkline, feeder road, state local service road or park  
22 and forest road constructed pursuant to this article:  
23 *Provided*, That nothing herein shall be construed as  
24 prohibiting the parkways authority from issuing  
25 parkway revenue bonds pursuant to section ten of this  
26 article for the purpose of paying all or any part of the  
27 cost of any such related parkway project: *Provided*,  
28 *however*, That none of the proceeds of the issuance of  
29 parkway revenue bonds under this section shall be used  
30 to pay all or any part of the cost of any economic  
31 development project, except as provided in section  
32 twenty-three of this article: *Provided, further*, That  
33 nothing herein shall be construed as prohibiting the  
34 parkways authority from issuing additional parkway  
35 revenue bonds to the extent permitted by applicable  
36 federal law for the purpose of constructing, maintaining  
37 and operating any highway constructed in whole or in  
38 part with money obtained from appalachian regional  
39 commission so long as said highway connects to the West  
40 Virginia Turnpike as it existed as of the first day of  
41 June, one thousand nine hundred eighty-nine. Except as  
42 otherwise specifically provided in this section, the  
43 issuance of parkway revenue bonds pursuant to this

44 section, the maturities and other details thereof, the  
45 rights of the holders thereof, and the rights, duties and  
46 obligations of the parkways authority in respect of the  
47 same, shall be governed by the provisions of this article  
48 insofar as the same may be applicable.

**§17-16A-12. Parkway revenue bonds—Trust agreement.**

1 In the discretion of the parkways authority any bonds  
2 issued under the provisions of this article may be  
3 secured by a trust agreement by and between the  
4 parkways authority and a corporate trustee, which may  
5 be any trust company or bank having the powers of a  
6 trust company within or without the state. Any such  
7 trust agreement may pledge or assign the tolls, rents,  
8 fees, charges and other revenues to be received, but shall  
9 not convey or mortgage any project or any part thereof.  
10 Any such trust agreement or any resolution providing  
11 for the issuance of such bonds may contain such  
12 provisions for protecting and enforcing the rights and  
13 remedies of the bondholders as may be reasonable and  
14 proper and not in violation of law, including covenants  
15 setting forth the duties of the parkways authority in  
16 relation to the acquisition of property and the construc-  
17 tion, reconstruction, improvement, maintenance, repair,  
18 operation and insurance of the project or projects in  
19 connection with which such bonds shall have been  
20 authorized, and the custody, safeguarding and applica-  
21 tion of all moneys, and provisions for the employment  
22 of consulting engineers in connection with the construc-  
23 tion or operation of such project or projects. It shall be  
24 lawful for any bank or trust company incorporated  
25 under the laws of the state which may act as depository  
26 of the proceeds of bonds or of revenues to furnish such  
27 indemnifying bonds, or to pledge such securities as may  
28 be required by the parkways authority. Any such trust  
29 agreement may set forth the rights and remedies of the  
30 bondholders and of the trustee, and may restrict the  
31 individual right of action by bondholders as is custom-  
32 ary in trust agreements or trust indentures securing  
33 bonds and debentures of corporations. In addition to the  
34 foregoing, any such trust agreement may contain such  
35 other provisions as the parkways authority may deem

36 reasonable and proper for the security of the bond-  
37 holders. All expenses incurred in carrying out the  
38 provisions of any such trust agreement may be treated  
39 as a part of the cost of the operation of the project or  
40 projects to which the trust agreement applies.

**§17-16A-13. Tolls, rents, fees, charges and revenues;  
competitive bidding on contracts.**

1 (a) The parkways authority is hereby authorized to  
2 fix, revise, charge and collect tolls for the use of each  
3 parkway project and the different parts or sections  
4 thereof, and to fix, revise, charge and collect rents, fees,  
5 charges and other revenues, of whatever kind or  
6 character, for the use of each economic development  
7 project or tourism project, or any part or section thereof,  
8 and to contract with any person, partnership, association  
9 or corporation desiring the use of any part thereof,  
10 including the right-of-way adjoining the paved portion,  
11 for placing thereon telephone, telegraph, electric light,  
12 power or other utility lines, gas stations, garages, stores,  
13 hotels, restaurants and advertising signs, or for any  
14 other purpose except for tracks for railroad or railway  
15 use, and to fix the terms, conditions, rents and rates of  
16 charges for such use. Such tolls, rents, fees and charges  
17 shall be so fixed and adjusted in respect of the aggregate  
18 of tolls, or in respect of the aggregate rents, fees and  
19 charges, from the project or projects in connection with  
20 which the bonds of any issue shall have been issued as  
21 to provide a fund sufficient with other revenues, if any,  
22 to pay (a) the cost of maintaining, repairing and  
23 operating such project or projects and (b) the principal  
24 of and the interest on such bonds as the same shall  
25 become due and payable, and to create reserves for such  
26 purposes. Such tolls, rents, fees and other charges shall  
27 not be subject to supervision or regulation by any other  
28 commission, board, bureau, department or agency of the  
29 state. The tolls, rents, fees, charges and all other  
30 revenues derived from the project or projects in  
31 connection with which the bonds of any issue shall have  
32 been issued, except such part thereof as may be  
33 necessary to pay such cost of maintenance, repair and  
34 operation and to provide such reserves therefor as may  
35 be provided for in the resolution authorizing the

36 issuance of such bonds or in the trust agreement  
37 securing the same, shall be set aside at such regular  
38 intervals as may be provided in such resolution or such  
39 trust agreement in a sinking fund which is hereby  
40 pledged to, and charged with, the payment of (1) the  
41 interest upon such bonds as such interest shall fall due,  
42 (2) the principal of such bonds as the same shall fall due,  
43 (3) the necessary charges of paying agents for paying  
44 principal and interest, and (4) the redemption price or  
45 the purchase price of bonds retired by call or purchase  
46 as therein provided. The use and disposition of moneys  
47 to the credit of such sinking fund shall be subject to the  
48 provisions of the resolution authorizing the issuance of  
49 such bonds or of such trust agreement. Except as may  
50 otherwise be provided in such resolution or such trust  
51 agreement, such sinking fund shall be a fund for all  
52 such bonds without distinction or priority of one over  
53 another. The moneys in the sinking fund, less such  
54 reserve as may be provided in such resolution or trust  
55 agreement, if not used within a reasonable time for the  
56 purchase of bonds for cancellation as above provided,  
57 shall be applied to the redemption of bonds at the  
58 redemption price then applicable.

59 (b) The parkways authority shall cause, as soon as it  
60 is legally able to do so, all contracts to which it is a party  
61 and which relate to the operation, maintenance or use  
62 of any restaurant, motel or other lodging facility, truck  
63 and automobile service facility, food vending facility or  
64 any other service facility located along the West  
65 Virginia Turnpike, to be renewed on a competitive bid  
66 basis. All contracts relating to any facility or services  
67 entered into by the parkways authority with a private  
68 party with respect to any project constructed after the  
69 effective date of this legislation shall be let on a  
70 competitive bid basis only. If the parkways authority  
71 receives a proposal for the development of a project,  
72 such proposal shall be made available to the public in  
73 a convenient location in the county wherein the proposed  
74 facility may be located. The parkways authority shall  
75 publish a notice of the proposal by a Class I legal  
76 advertisement in accordance with the provisions of  
77 article three, chapter fifty-nine of this code. The

78 publication area shall be the county in which the  
 79 proposed facility would be located. Any citizen may  
 80 communicate by writing to the parkways authority his  
 81 or her opposition to or approval to such proposal within  
 82 a period of time not less than forty-five days from the  
 83 publication of the notice. No contract for the develop-  
 84 ment of a project may be entered into by the parkways  
 85 authority until a public hearing is held in the vicinity  
 86 of the location of the proposed project with at least  
 87 twenty days notice of such hearing by a Class I  
 88 publication pursuant to section two, article three,  
 89 chapter fifty-nine of this code. The parkways authority  
 90 shall make written findings of fact prior to rendering  
 91 a decision on any proposed project. All studies, records,  
 92 documents and other materials which are considered by  
 93 the parkways authority in making such findings shall  
 94 be made available for public inspection at the time of  
 95 the publication of the notice of public hearing and at a  
 96 convenient location in the county where the proposed  
 97 project may be located. The parkways authority shall  
 98 promulgate rules in accordance with chapter twenty-  
 99 nine-a of this code for the conduct of any hearing  
 100 required by this section. Persons attending any such  
 101 hearing shall be afforded a reasonable opportunity to  
 102 speak and be heard on the proposed project.

#### **§17-16A-14. Trust funds.**

1 All moneys received pursuant to the authority of this  
 2 article, whether as proceeds from the sale of bonds or  
 3 as revenues, shall be deemed to be trust funds, to be held  
 4 and applied solely as provided in this article. The  
 5 resolution authorizing the issuance of bonds of any issue  
 6 or the trust agreement securing such bonds shall  
 7 provide that any officer to whom, or any bank or trust  
 8 company to which, such moneys shall be paid shall act  
 9 as trustee of such moneys and shall hold and apply the  
 10 same for the purposes hereof, subject to such regulations  
 11 as this article and such resolution or trust agreement  
 12 may provide.

#### **§17-16A-15. Remedies.**

1 Any holder of bonds issued under the provisions of this



2 article or any of the coupons appertaining thereto, and  
3 the trustee under any trust agreement, except to the  
4 extent the rights herein given may be restricted by such  
5 trust agreement, may, either at law or in equity, by suit,  
6 action, mandamus or other proceeding, protect and  
7 enforce any and all rights under the laws of the state  
8 or granted hereunder or under such trust agreement or  
9 the resolution authorizing the issuance of such bonds,  
10 and may enforce and compel the performance of all  
11 duties required by this article or by such trust agree-  
12 ment or resolution to be performed by the parkways  
13 authority or by any officer thereof, including the fixing,  
14 charging and collecting of tolls, rents, fees and charges.

**§17-16A-16. Exemption from taxation.**

1 (a) The exercise of the powers granted by this article  
2 will be in all respects for the benefit of the people of  
3 the state, for the increase of their commerce and  
4 prosperity, and for the improvement of their health and  
5 living conditions, and as the operation and maintenance  
6 of projects by the parkways authority will constitute the  
7 performance of essential governmental functions, the  
8 parkways authority shall not be required to pay any  
9 taxes or assessments upon any project or any property  
10 acquired or used by the parkways authority under the  
11 provisions of this article or upon the income therefrom,  
12 and the bonds issued under the provisions of this article,  
13 their transfer and the income therefrom (including any  
14 profit made on the sale thereof) shall at all times be free  
15 from taxation within the state.

16 (b) In lieu of payment by the parkways authority of  
17 county property taxes and other assessments on restau-  
18 rant and gas service facilities owned by it, or upon any  
19 facility described in subsection (b) of section thirteen  
20 herein which is leased to any private person, corpora-  
21 tion, or entity, the parkways authority shall make an  
22 annual payment as provided herein to the county  
23 commission of such county. Any parkways authority  
24 project which is leased and is exempt from taxation  
25 shall be subject to a payment in lieu of taxes. Said  
26 payment shall be made to the county commission of the  
27 county in which the project is located and shall be in

28 an amount equal to the property taxes otherwise  
 29 payable. The county commission receiving such in lieu  
 30 of payment shall distribute such payment to the  
 31 different levying bodies in that county in the same  
 32 manner as are property taxes. Nothing contained herein  
 33 may be construed to prohibit the parkways authority  
 34 from collecting such in lieu payment from any private  
 35 party by contract or otherwise.

**§17-16A-17. Repair, etc., of damaged property; conveyances, etc., by counties, cities, etc., to parkways authority; maintenance and policing of projects; defrauding parkways authority; evading payment of tolls, rents, fees or charges; trespassing.**

1 All private property damaged or destroyed in carry-  
 2 ing out the powers granted by this article shall be  
 3 restored or repaired and placed in its original condition  
 4 as nearly as practicable or adequate compensation made  
 5 therefor out of funds provided under the authority of  
 6 this article.

7 All counties, cities, villages, townships and other  
 8 political subdivisions and all public agencies and  
 9 commissions of the state of West Virginia, notwithstand-  
 10 ing any contrary provision of law, are hereby authorized  
 11 and empowered to lease, lend, grant or convey to the  
 12 parkways authority at its request upon such terms and  
 13 conditions as the proper authorities of such counties,  
 14 cities, villages, townships, other political subdivisions or  
 15 public agencies and commissions of the state may deem  
 16 reasonable and fair and without the necessity for any  
 17 advertisement, order of court or other action or formal-  
 18 ity, other than the regular and formal action of the  
 19 authorities concerned, any real property which may be  
 20 necessary or convenient to the effectuation of the  
 21 authorized purposes of the parkways authority, includ-  
 22 ing public roads and other real property already devoted  
 23 to public use.

24 Each project when constructed and opened to traffic  
 25 or use shall be maintained and kept in good condition  
 26 and repair by the parkways authority. The parkways

27 authority and the superintendent of the department of  
28 public safety may by agreement provide that such  
29 project or projects shall be policed by members of such  
30 department under such terms and conditions as they  
31 may determine, excepting that all costs thereof, either  
32 direct or indirect, including overhead costs attributable  
33 thereto, shall be paid unto such department by the  
34 parkways authority at regular intervals not to exceed  
35 one year.

36 Whoever shall knowingly or intentionally defraud or  
37 attempt to defraud the parkways authority, any of its  
38 tolltakers or other employees in regard to the payment  
39 of tolls, rents, fees or charges established by the  
40 parkways authority for the use of any such project or  
41 evade or attempt to evade or whoever shall aid another  
42 to evade or attempt to evade the payment of such toll,  
43 rent, fee or charge or whoever shall intentionally and  
44 knowingly trespass upon any project shall be guilty of  
45 a misdemeanor; and for every such offense shall upon  
46 conviction thereof be fined not in excess of fifty dollars.  
47 Magistrate courts shall have jurisdiction of misdemea-  
48 nors created by this paragraph concurrently with  
49 circuit courts.

**§17-16A-18. Cessation of tolls.**

1 (a) Except as provided herein, when all bonds issued  
2 under the provisions of this article in connection with  
3 any parkway project or projects and the interest thereon  
4 shall have been paid or a sufficient amount for the  
5 payment of all such bonds and the interest thereon to  
6 the maturity thereof shall have been set aside in trust  
7 for the benefit of the bondholders, such project or  
8 projects, if then in good condition and repair to the  
9 satisfaction of the commissioner of the state department  
10 of highways, shall be transferred to the state depart-  
11 ment of highways and shall thereafter be maintained by  
12 the state department of highways free of tolls: *Provided,*  
13 That the parkways authority may thereafter charge tolls  
14 for the use of any such project and for the reconstruc-  
15 tion, improvement, maintenance and repair thereof,  
16 except as may be limited by applicable federal laws, and  
17 pledge such tolls to the payment of bonds issued under

18 the provisions of this article in connection with another  
19 project or projects, or any combination thereof, but any  
20 such pledge of tolls of a parkway project to the payment  
21 of bonds issued in connection with another project or  
22 projects shall not be effectual until the principal of and  
23 the interest on the bonds issued in connection with the  
24 first mentioned project shall have been paid or provision  
25 made for their payment.

26 (b) No later than the first day of February, one  
27 thousand nine hundred ninety, the parkways authority  
28 shall discontinue, remove and not relocate all toll  
29 collection facilities on the West Virginia Turnpike  
30 except for the three main toll collection facilities  
31 existing on the West Virginia Turnpike as of the  
32 effective date of this legislation: *Provided*, That nothing  
33 herein may be construed to prohibit placement of new  
34 tolls to the extent permitted by federal law for any new  
35 expressway, turnpike, trunkline, feeder road, state local  
36 service road, or park and forest road connected to the  
37 West Virginia Turnpike and constructed after the first  
38 of June, one thousand nine hundred eighty-nine.

**§17-16A-19. Preliminary expenses.**

1 The commissioner of the state department of high-  
2 ways is hereby authorized in his discretion to expend out  
3 of any funds available for the purpose such moneys as  
4 may be necessary for the study of any parkway,  
5 economic development or tourism project or projects and  
6 to use the department of highway's engineering and  
7 other forces, including consulting engineers and traffic  
8 engineers, for the purpose of effecting such study and  
9 to pay for such additional engineering and traffic and  
10 other expert studies as he may deem expedient; and all  
11 such expenses incurred by the state department of  
12 highways prior to the issuance of parkway revenue  
13 bonds or revenue refunding bonds under the provisions  
14 of this article shall be paid by the state department of  
15 highways and charged to the appropriate project or  
16 projects, and the state department of highways shall  
17 keep proper records and accounts showing each amount  
18 so charged. Upon the sale of parkway revenue bonds or  
19 revenue refunding bonds for any project or projects, the

20 funds so expended by the state department of highways  
21 in connection with such project or projects shall be  
22 reimbursed to the state department of highways from  
23 the proceeds of such bonds.

**§17-16A-20. Parkway projects part of state road system;  
pledge of limited funds by state department  
of highways in case of deficit.**

1 It is hereby declared that any expressway, turnpike,  
2 feeder road, state local service road or park and forest  
3 road or other road, or any subsequent expressway,  
4 turnpike feeder road, state local service road, park and  
5 forest road or other road constructed pursuant to this  
6 article shall be a part of the state road system, although  
7 subject to the provisions of this article and of any bonds  
8 or trust agreements entered into pursuant thereto, and  
9 that the construction of such parkway projects shall be  
10 considered as developments of the state road system.  
11 Any other provisions of this article to the contrary  
12 notwithstanding, in order to encourage the development  
13 of the state road system, the state is authorized in its  
14 discretion to pledge by resolution and agreement  
15 annually to pay from the state road fund, subject to all  
16 prior commitments of such fund which shall be stated  
17 in the resolution and agreement, the amount of any  
18 yearly deficit between the principal and interest  
19 requirements of any such parkway project or portion  
20 thereof hereafter constructed and the amount available  
21 in the hands of the parkways authority to pay such  
22 requirements, up to three fourths of one per cent of the  
23 estimated or actual construction cost of such parkway  
24 project or portion thereof for which such pledge is made,  
25 until any bonds issued and interest due upon the basis  
26 of such a pledge have been fully paid and satisfied:  
27 *Provided*, That the state department of highways shall  
28 enter into no agreement with underwriters on any bond  
29 issue for the purpose of constructing or aiding in the  
30 construction of any toll road unless and until there is  
31 filed with the parkways authority a report and finding  
32 of reputable traffic engineers of national standing,  
33 showing that the earnings from the proposed toll road  
34 will be sufficient to provide annual income in an amount

35 at least large enough to cover the annual cost of retiring  
 36 the indebtedness, including interest, sinking fund and  
 37 operating costs of such toll highway.

**§17-16A-21. Parkway revenue refunding bonds—  
 generally.**

1 The parkways authority is hereby authorized to  
 2 provide by resolution for the issuance of parkway  
 3 revenue refunding bonds of the state for the purpose of  
 4 refunding any bonds then outstanding which shall have  
 5 been issued under the provisions of this article, includ-  
 6 ing the payment of any redemption premium thereon  
 7 and any interest accrued or to accrue to the date of  
 8 redemption of such bonds; and, if deemed advisable by  
 9 the parkways authority, for the additional purpose of  
 10 constructing improvements, extensions or enlargements  
 11 of the project or projects in connection with which the  
 12 bonds to be refunded shall have been issued: *Provided*,  
 13 That this section shall not be construed as authorizing  
 14 the issuance of parkway revenue refunding bonds for  
 15 the purpose of refunding any bonds then outstanding  
 16 which shall have been issued under the provisions of this  
 17 article, or any predecessor thereof, in connection with  
 18 the construction of the West Virginia Turnpike, which  
 19 revenue refunding bonds may be issued only as autho-  
 20 rized under section twenty-two of this article. The  
 21 parkways authority is further authorized to provide by  
 22 resolution for the issuance of parkway revenue bonds of  
 23 the state for the combined purpose of two or more of the  
 24 following: (a) refunding any bonds then outstanding  
 25 which shall have been issued under the provisions of this  
 26 article, including the payment of any redemption  
 27 premium thereon and any interest accrued or to accrue  
 28 to the date of redemption of such bonds; (b) paying all  
 29 or any part of the cost of any additional project or  
 30 projects; and (c) repaying to the state all or any part of  
 31 the state funds used to upgrade the West Virginia  
 32 Turnpike to federal interstate standards. The issuance  
 33 of such bonds, the maturities and other details thereof,  
 34 the rights of the holders thereof, and the rights, duties  
 35 and obligations of the parkways authority in respect of  
 36 the same, shall be governed by the provisions of this

37 article insofar as the same may be applicable.

**§17-16A-22. Parkway revenue refunding bonds—West Virginia Turnpike.**

1 The parkways authority is hereby authorized to  
2 provide by resolution for the issuance of parkway  
3 revenue refunding bonds of the state in an aggregate  
4 principal amount not to exceed sixty million dollars for  
5 the purpose of refunding any bonds which shall have  
6 been issued under this article, or any predecessor  
7 thereof, in connection with the construction of the West  
8 Virginia Turnpike, including the payment of any  
9 redemption premium thereon and any interest accrued  
10 or to accrue to the date of redemption of such bonds,  
11 and, to the extent permissible under federal law and if  
12 deemed advisable by the parkways authority, for either  
13 or both of the following purposes: (a) paying all or any  
14 part of the cost of any additional parkway project or  
15 projects, and (b) repaying to the state all or any part  
16 of the state funds used to upgrade the West Virginia  
17 Turnpike to federal interstate standards: *Provided*, That  
18 any proceeds derived from the issuance of such bonds  
19 which are used on any parkway project other than the  
20 West Virginia Turnpike must be used solely on parkway  
21 projects (i) which are either connected to or intersect  
22 with the West Virginia Turnpike and are within  
23 seventy-five air miles of said Turnpike as it exists on the  
24 first day of June, one thousand nine hundred eighty-nine  
25 or any subsequent expressway, trunkline, turnpike,  
26 feeder road, state local service road or park and forest  
27 road constructed pursuant to this article, and (ii) which  
28 involve the upgrading or addition of interchanges, the  
29 construction of expressways or feeder roads, or the  
30 upgrading or construction of information centers,  
31 visitors' centers, rest stops, or any combination thereof:  
32 *Provided, however*, That none of the proceeds of the  
33 issuance of parkway revenue refunding bonds issued  
34 under this section shall be used to pay all or any part  
35 of the cost of any economic development project, except  
36 as provided in section twenty-three of this article.  
37 Except as otherwise specifically provided in this section,  
38 the issuance of parkway revenue refunding bonds

39 pursuant to this section, the maturities and other details  
40 thereof, the rights of the holders thereof, and the rights,  
41 duties and obligations of the parkways authority in  
42 respect of the same, shall be governed by the provisions  
43 of this article insofar as the same may be applicable.

**§17-16A-23. Special highway fund; appropriations from fund.**

1 (a) There is hereby created a special fund in the state  
2 treasury which shall be designated and known as the  
3 "West Virginia special highway fund." The special  
4 highway fund shall consist of (i) all funds allocated and  
5 disbursed to the state department of highways by the  
6 parkways authority, including without limitation the  
7 proceeds of any parkway revenue bonds or revenue  
8 refunding bonds issued by the parkways authority  
9 pursuant to sections eleven, twenty-one or twenty-two of  
10 this article, in repayment of the amount of state funds  
11 used to upgrade the West Virginia Turnpike to federal  
12 interstate standards, (ii) any appropriations, grants,  
13 gifts, contributions or other revenues received by the  
14 special highway fund from any source, and (iii) all  
15 interest earned on moneys held in the fund. When any  
16 funds are received by the state department of highways  
17 from the parkways authority pursuant to this section,  
18 they shall be paid into the state treasury by the  
19 commissioner of the department of highways and  
20 credited to the special highway fund, and shall be  
21 disbursed in the manner set forth in subsections (b) and  
22 (c) of this section. The special highway fund shall not  
23 be treated by the auditor and treasurer as part of the  
24 state road fund or as part of the general revenues of the  
25 state.

26 (b) The governor shall have the authority to transfer  
27 to the insurance fund created in section eight, article  
28 fifteen, chapter thirty-one of this code, on any date or  
29 dates after the enactment of this section, up to thirty-  
30 five million dollars of the funds received or earned by  
31 the special highway fund, which funds may be used and  
32 applied by the West Virginia economic development  
33 authority in the manner and to the extent set forth in  
34 article fifteen of said chapter thirty-one. On or before



35 the thirty-first day of December, one thousand nine  
36 hundred ninety-four, the economic development author-  
37 ity shall retransfer to the special highway fund the  
38 thirty-five million dollars advanced to the insurance  
39 fund pursuant to this section. All interest earned on the  
40 thirty-five million dollars while being held in the  
41 insurance fund shall remain in, and be the property of,  
42 said insurance fund.

43 (c) Upon the transfer of thirty-five million dollars to  
44 the insurance fund as provided in subsection (b) of this  
45 section, the Legislature shall annually appropriate all or  
46 any part of the balance of the funds deposited in the  
47 special highway fund for the construction, reconstruc-  
48 tion, improvement, maintenance or repair of any  
49 parkway project or projects: *Provided*, That all of such  
50 funds shall be appropriated to (i) the upgrading or  
51 addition of interchanges; (ii) the construction of express-  
52 ways or feeder roads; or (iii) the upgrading or construc-  
53 tion of information centers, visitors' centers, rest stops,  
54 or any combination thereof, and that all such feeder  
55 roads, expressways, interchanges, information centers,  
56 visitors' centers or rest stops shall connect to the West  
57 Virginia Turnpike and within seventy-five air miles of  
58 the West Virginia Turnpike as it existed on the effective  
59 date of this legislation, or any subsequent expressway,  
60 turnpike or feeder road constructed pursuant to this  
61 subsection. The appropriation of funds pursuant to this  
62 subsection shall be expended on more than one project.

**§17-16A-24. Article deemed to provide additional and  
alternative methods.**

1 This article shall be deemed to provide an additional  
2 and alternative method for the doing of the things  
3 authorized thereby, and shall be regarded as supple-  
4 mental and additional to powers conferred by other  
5 laws, and shall not be regarded as in derogation of any  
6 powers now existing. The issuance of special obligation  
7 bonds under the provisions of this article need not  
8 comply with the requirements of any other law appli-  
9 cable to the issuance of bonds.

**§17-16A-25. Additional powers of parkways authority;**

**issuance of special obligation bonds.**

1 (a) In addition to all powers granted by the foregoing  
 2 sections of this article, the parkways authority in  
 3 connection with a proceeding prosecuted to completion  
 4 under Title 11, United States Code, Secs. 401-403, as  
 5 permitted by subdivision (17), section ~~five~~<sup>six</sup> of this article  
 6 is hereby authorized to provide by resolution for the  
 7 issuance of special obligation bonds of the state for the  
 8 purpose of exchanging such special obligation bonds for  
 9 all bonds then outstanding which shall have been issued  
 10 under the provisions of this article. Special obligation  
 11 bonds issued under the provisions of this section shall  
 12 not be deemed to constitute a debt of the state or of any  
 13 political subdivision thereof or a pledge of the faith and  
 14 credit of the state or of any such political subdivision,  
 15 but such bonds shall be payable solely from the funds  
 16 herein provided therefor from pledged property and  
 17 income therefrom as provided in subdivision (1) of this  
 18 subsection. All such special obligation bonds shall  
 19 contain on the face thereof a statement in accordance  
 20 with the preceding sentence. The issuance of such bonds,  
 21 the maturities and other details thereof, the rights of the  
 22 holders thereof, and the rights, duties and obligations of  
 23 the parkways authority in respect of the same shall be  
 24 governed by the provisions of this article insofar as the  
 25 same may be applicable with the following express  
 26 exceptions:

27 (1) The principal of and the interest on such special  
 28 obligation bonds shall not be payable from tolls, rents,  
 29 fees, charges or revenues of any parkway project but  
 30 shall be payable solely from such other property  
 31 purchased and pledged as security therefor as the  
 32 parkways authority shall determine together with the  
 33 income derived therefrom which other property may  
 34 include direct obligations of, or obligations the principal  
 35 of and the interest on which are guaranteed by, the  
 36 United States government or participation certificates  
 37 or other obligations issued by or by authority of the  
 38 United States government; and

39 (2) Following the issuance of such special obligation  
 40 bonds there shall be no obligation to fix, revise, charge

*ed.*  
*Donald L. Meyer*  
*D. M. J.*

41 and collect tolls for the use of any parkway project and  
42 any parkway project shall be transferred to the state  
43 department of highways and shall thereafter be main-  
44 tained by the state department of highways free of tolls.  
45 At such time as the special obligation bonds are issued,  
46 then section eighteen of this article shall be of no further  
47 force and effect.

48 (b) Financial, legal, engineering and feasibility  
49 consultants may be employed to perform such services  
50 as the parkways authority shall deem necessary or  
51 desirable in connection with the Title 11 proceedings  
52 mentioned above and the issuance and exchange of the  
53 special obligation bonds.

54 (c) The entire powers herein granted by this section  
55 to the parkways authority may be exercised by the state  
56 department of highways in which event the special  
57 obligation bonds herein authorized shall be executed by  
58 manual or facsimile signature by the governor and by  
59 the commissioner of the department of highways, and  
60 the official seal of the department of highways shall be  
61 affixed to or printed on each bond, and any coupons  
62 attached to such bonds shall bear the manual or  
63 facsimile signature of the commissioner of the state  
64 department of highways. In the event that the state  
65 department of highways shall elect to exercise the  
66 powers granted by this section, it shall file a statement  
67 to that effect in the office of the chairman of the  
68 parkways authority and in the office of the secretary of  
69 state, and upon the issuance of the special obligation  
70 bonds herein provided for the state department of  
71 highways shall succeed immediately to the principal  
72 functions of the parkways authority and the parkways  
73 authority shall then be abolished.

74 (d) The state department of highways is hereby  
75 empowered to acquire by purchase the parkways  
76 authority and all its rights-of-way, equipment, facilities  
77 and any and all other rights or interest the parkways  
78 authority has or had in any project, from any funds  
79 available to it, and to pay any expenses incident to such  
80 acquisition under the provisions of this article: *Provided,*  
81 That the contribution of the state department of

82 highways in making such acquisition shall not exceed  
 83 the sum of twenty million dollars from all sources of  
 84 public moneys of the state of West Virginia, excluding  
 85 any funds reimbursed or reimbursable or otherwise  
 86 provided or to be provided by the federal government.  
 87 No funds derived from the sale of the three hundred  
 88 fifty million dollars bond issue authorized by the roads  
 89 development amendment shall be included in the  
 90 acquisition of the West Virginia Turnpike.

**§17-16A-26. Annual report.**

1 The parkways authority shall prepare on an annual  
 2 basis and provide to each member of the West Virginia  
 3 Legislature who so requests an annual report detailing  
 4 the financial condition and operations of the parkways  
 5 authority. The parkways authority shall provide to the  
 6 joint committee on government and finance any finan-  
 7 cial statements as may be required under any trust  
 8 agreement to which the parkways authority is a party.

**§17-16A-27. Exit awareness signs.**

1 Consistent with applicable federal laws, rules and  
 2 regulations, the parkways authority shall develop and  
 3 prepare a uniform roadway sign identifying the avail-  
 4 ability of restaurants, gas stations, hotel accommoda-  
 5 tions and emergency services available off each exit of  
 6 the West Virginia Turnpike. At every tourism project  
 7 maintained or operated by the parkways authority and  
 8 which is constructed after the effective date of this  
 9 legislation, and, to the extent permitted under the terms  
 10 of the applicable lease, at every currently existing  
 11 service station, gas station, hotel or restaurant, garage  
 12 or store maintained, operated or leased by the parkways  
 13 authority, the parkways authority shall at no charge or  
 14 cost permit the placement of, in a conspicuous place, all  
 15 reasonably sized advertising literature prepared and  
 16 delivered by hotels, restaurants and other tourist  
 17 attractions, whether public or private, located within  
 18 the state of West Virginia.

**§17-16A-28. Severability.**

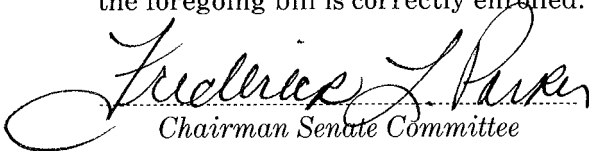
1 If any section, subsection, subdivision, subparagraph,

2 sentence or clause of this article is adjudged to be  
3 unconstitutional or invalid, such adjudication shall not  
4 affect the validity of the remaining portions of this  
5 article, and, to this end, the provisions of this article are  
6 hereby declared to be severable.

**§17-16A-29. Effective date.**

1 The provisions of this article as amended or added by  
2 this act shall take effect on the first day of June, one  
3 thousand nine hundred eighty-nine.

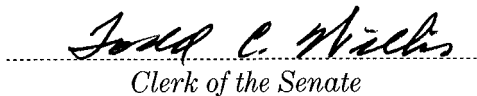
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

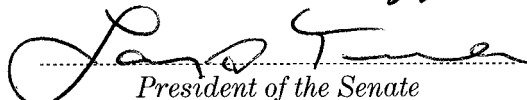
  
Chairman House Committee

Originating in the House.

Takes effect June 1, 1989.

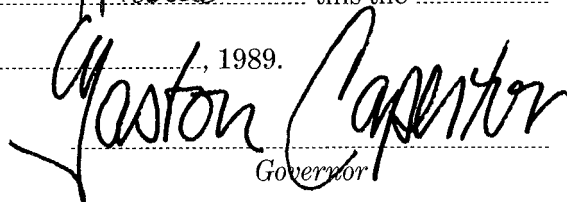
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 27th  
day of April, 1989.

  
Governor

PRESENTED TO THE

Date 4/25/89

Title 2.26